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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,109	08/30/2001	Shannon M. Short	36968-259630 (BS01158)	9813
23552 7590 05/03/2007 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER GAUTHIER, GERALD	
			ART UNIT 2614	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/943,109	Applicant(s) SHORT, SHANNON M.	
	Examiner Gerald Gauthier	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-18, 20-22, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-18, 20-22, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claim(s) 31-32** are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure, which is not enabling. "A computer readable medium" is critical or essential to the practice of the invention, included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. **Claim(s) 1-3, 6-18, 20-22 and 31-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillson et al. (US 6,094,644) in view of McGregor et al. (US 6,198,915 B1).

Regarding **claim(s) 1**, Hillson discloses a method for tracking telephone plan minute status (column 1, lines 7-10), comprising:

initializing a first timer, having timer information, including a time block designation and a timer usage variable, associated therewith (column 12, lines 24-31);  
adding the time used by a call to the timer usage variable if the call was made within the time block designation associated with the first timer (column 12, lines 32-39);  
and  
notifying a user of predefined timer information (column 12, lines 40-50).

Hillson fails to disclose the predefined timer information includes the time limits minus a value of the timer usage variable.

However, McGregor teaches wherein the predefined timer information includes the time limits minus a value of the timer usage variable (column 18, lines 30-44).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Hillson using the teaching of calculating charges as taught by McGregor.

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This modification of the invention enables the system to predefine timer information includes the time limits minus a value of the timer usage variable so that the user would know their usage.

Regarding **claim(s) 2 and 32**, Hillson discloses a method, further comprising: initializing a second timer, having timer information, including a second time block designation and a second timer usage variable, associated therewith (column 13, lines 46-54).

Regarding **claim(s) 3 and 18**, Hillson discloses a method, wherein the predefined timer information includes a value associated with the timer usage variable (column 13, lines 46-54).

Regarding **claim(s) 4 and 19**, Hillson discloses a method, wherein the predefined timer information includes time limits associated with the time block designation (column 13, lines 46-54).

Regarding **claim(s) 5 and 20**, Hillson discloses a method, wherein the predefined timer information includes the time limits minus a value of the timer usage variable (column 13, lines 46-54).

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Regarding **claim(s) 6**, Hillson discloses a method, further comprising: receiving from the user time block information to initialize a timer (column 13, lines 46-54)

Regarding **claim(s) 7**, Hillson discloses a method, further comprising: setting each time block designation associated with each timer based on a time block defined by a calling plan structure (column 13, lines 46-54).

Regarding **claim(s) 8**, Hillson discloses a method, wherein each time block designation associated with each timer comprises at least one beginning time and at least one ending time (column 12, lines 24-31).

Regarding **claim(s) 9**, Hillson discloses a method, wherein each time block designation associated with each timer comprises at least one beginning date and at least one beginning time and at least one ending date and at least one ending time (column 12, lines 24-31).

Regarding **claim(s) 10**, Hillson discloses a method, further comprising: resetting the timer usage variable (column 13, lines 46-54).

Regarding **claim(s) 11**, Hillson discloses a method, further comprising: resetting the timer usage variable periodically (column 13, lines 46-54).

Regarding **claim(s) 12**, Hillson discloses a method, wherein said notifying further comprises: sending an electronic message to the user (column 13, lines 46-54).

Regarding **claim(s) 13**, Hillson discloses a method, wherein said notifying further comprises: transmitting timer information on a computer network to the user (column 13, lines 46-54).

Regarding **claim(s) 14**, Hillson discloses a method, wherein said notifying further comprises: receiving a user request for timer information through a voice mail system; and transmitting timer information to said the user through the voice mail system (column 13, lines 46-54).

Regarding **claim(s) 15 and 21**, Hillson discloses a method, further comprising protecting the predefined timer information with a user password (column 13, lines 46-54).

Regarding **claim(s) 16 and 22**, Hillson discloses a method, further comprising charging a fee to access the predefined timer information (column 12, lines 24-31).

Regarding **claim(s) 17**, Hillson discloses a system for tracking telephone plan minute status (column 1, lines 7-10), comprising:

a computer (19 on FIG. 4); and

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a software program loaded onto said computer configured to:

initiate a timer, wherein the timer has information, including a time block designation and a timer usage variable, associated therewith (column 12, lines 24-31);

add time used by a call to the timer usage variable if the call was made within the time block designation associated with the timer and notify a user of predefined timer information (column 12, lines 32-50).

Hillson fails to disclose the predefined timer information includes the time limits minus a value of the timer usage variable.

However, McGregor teaches wherein the predefined timer information includes the time limits minus a value of the timer usage variable (column 18, lines 30-44).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Hillson using the teaching of calculating charges as taught by McGregor.

This modification of the invention enables the system to predefine timer information includes the time limits minus a value of the timer usage variable so that the user would know their usage.

Regarding **claim(s) 31**, Hillson discloses a computer readable medium having stored thereon computer-executable instructions for causing a computer to perform a method for tracking telephone plan minute status, the method comprising:



initializing a first timer, having timer information, including a time block designation having time limits and a timer usage variable, associated therewith (column 12, lines 24-31);

adding time used by a call to the timer usage variable when the call was made within the time block designation associated with the first timer (column 12, lines 32-50);  
and

notifying a user of predefined timer information (column 12, lines 40-50).

Hillson fails to disclose the predefined timer information includes the time limits minus a value of the timer usage variable.

However, McGregor teaches wherein the predefined timer information includes the time limits minus a value of the timer usage variable (column 18, lines 30-44).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Hillson using the teaching of calculating charges as taught by McGregor.

This modification of the invention enables the system to predefine timer information includes the time limits minus a value of the timer usage variable so that the user would know their usage.

### ***Response to Arguments***

6. Applicant's arguments with respect to **claim(s) 1-3, 6-18, 20-22 and 31-32** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gerald Gauthier  
Primary Examiner  
Art Unit 2614

GG